

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2824 OF 2001
IN
SUIT NO.2611 OF 2000

Vasanthy Shetty and another Plaintiffs

versus

Sanjeeva Nandu Shetty and others Defendants

ALONG WITH
NOTICE OF MOTION NO.3073 OF 2003
IN
SUIT NO.2611 OF 2000

Vasanthy Shetty and another Plaintiffs

versus

Sanjeeva Nandu Shetty and others Defendants

Ms.Sheetal Kumar i/by M.M.Patel & Co. for
plaintiffs.

Mr.G.B.Kedia for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th July 2005

PC :

1. These Notice of Motions were heard together
and are being disposed off by a common order.

2. The first Notice of Motion is taken out in a

suit which is instituted for administration of the estate of the deceased consequent upon a declaration that the plaintiffs are the heirs and legal representatives and have 1/3rd share in the same. The deceased Premnath Shetty is the husband of first plaintiff and the father of second plaintiff. The suit is filed by them against mother in law and brother in law as well as other relations. The Notice of Motion is taken out for appropriate interlocutory reliefs to preserve and protect the estate. The second Notice of Motion seeks appointment of Court Receiver of the estate of the deceased.

3. Both motions were pending and the plaintiff was unable to get any ad-interim reliefs therein. Parties have exchanged affidavits. The stand taken by the contesting defendants, on affidavits, is that some of the assets disclosed at Exhibit-F (sr.nos.1 to 4) do not belong to the estate of the deceased. Insofar as a residential flat is concerned, it is contended by the contesting defendants that the said flat is sold by defendant no.1 during his life time. Insofar as Exhibit-B (articles of jewellery etc.) is concerned, it is stated that they are not in possession of defendant no.2 or any of the

defendants. These facts are controverted by the plaintiff and she does not admit that the aforesaid items do not belong to the deceased or that the deceased does not have any share therein. However, both sides agree to the following arrangement during pendency of the suit. Counsel further agree that the Notice of Motions can be disposed off in terms of this arrangement.

4. Defendants 2 and 3 shall pay to the plaintiff no.1 a sum of Rs.20,000/- per month towards maintenance of herself and the minor child. The first such payment shall be made on 10th August 2005 and all subsequent payments would be made on 10th of each succeeding month. The amounts shall be paid till hearing and final disposal of the suit. The amount shall be paid by demand draft/pay order drawn in the name of first plaintiff. First plaintiff shall deposit the amount in her account and inform defendants about details thereof. She should also forward extract of the said account periodically (every six months) to the defendants or their advocate. Insofar as the property namely a residential hotel "The Nest" is concerned, defendants undertake that presently the said hotel business

is conducted, managed and administered by them and as and when they intend to sell or dispose off the same, they will give four weeks prior notice to the plaintiff or her advocate.

5. The defendants shall pay to the plaintiffs within a four weeks from today a sum of Rs.3.00 lakh (Rs.Three lakh only) lying in Bharat Co-operative Bank Ltd. together with interest thereon. These monies are in respect of Insurance Policy No.917138336. Said policy was in the name of deceased. Plaintiff no.1 upon receipt of this amount, shall invest the same in a fixed deposit preferably in a nationalised bank initially for a period of three years to be renewed subject to further directions of this Court. However, it would be open for plaintiff no.1 to apply to this Court for pre-mature encashment or withdrawal of the same and that application would be dealt with appropriately. In case of any default in payment of monthly amount or in respect of sum of Rs.3.00 lakh, it would be open for the plaintiff to apply for appropriate reliefs and disposal of Notice of Motions would not constitute a bar in initiation or prosecution of the same. This order is without prejudice to the rights and contentions

((-5-))

of both sides. No order as to costs.

(S.C.DHARMADHIKARI, J.)